

THE HON'BLE SRI JUSTICE V.V.S.RAO

-
WRIT PETITION No.24333 of 2006

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Dated: 22.11.2006

Between

M.A.Q.Mohiuddin Hamid

..... PETITIONER

And

The Sub-Divisional Magistrate and
Revenue Divisional Officer,
Hyderabad Division, Hyderabad.

.....RESPONDENTS

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ORDER:

The petitioner is resident of Teegalaguda. Statedly, he regularly visits the Mosque Moosaram Bagh which is adjacent to Ashoor Khana Raheem Bee and graveyard at Teegalaguda. The petitioner alleges that the third respondent herein encroached the wakf property bearing No. 16-11-47/1, Teegalaguda, Hyderabad. This was brought to the notice of the second respondent. Action was initiated under Section 54 of the Wakf Act, 1995 (the Act, for brevity) issuing a notice dated 13.11.2001 to the third respondent. Subsequently, the second respondent passed orders under Section 54(3) of the Act on 12.04.2002 declaring the third respondent as an encroacher and ordered his eviction. As the third respondent failed to deliver possession of the wakf property, the second respondent addressed the first respondent under Section 55 of the Act requesting the latter to remove the encroachment of the wakf property. The petitioner alleges that the request sent by letter dated 06.07.2002 was followed up by sending number of reminders including the one dated 26.02.2004, in

vain. Hence, the present writ petition is filed seeking a direction to the first respondent to take necessary action as requested by the second respondent.

The learned Counsel for the petitioner, while placing reliance on Sections 54 and 55 of the Act, submits that it is the statutory duty cast on the Executive Magistrate to take necessary steps for eviction of an encroacher of the wakf property. Though the second respondent requested the first respondent four years ago, no action was taken and thereby, the first respondent ignored the mandate of the Statute.

At the stage of admission itself, the learned Assistant Government Pleader for Revenue (General-T) after obtaining instructions submits that the first respondent has sent the Mandal Revenue Officer to enquire and submit a report. The Mandal Revenue Officer submitted a report, based on which, the first respondent sent a letter to the second respondent on 30.06.2004 stating that as per the verification report submitted by the Mandal Revenue Officer, the property is registered/classified as a Government property and that it is not a wakf property.

Having regard to the submissions made by the learned Assistant Government Pleader, this Court is not able to accept the submission of the learned Counsel for the petitioner that there is any culpable inaction on the part of the first respondent. The first respondent has immediately taken action and after receiving a report from the Mandal Revenue Officer to the effect that the land is a Government land and not a wakf property, sent a report in June 2006 itself to the Chief Executive Officer of the Wakf Board. It is now for the Chief Executive Officer to take appropriate action and the writ petitioner cannot have any grievance, which can be redressed in this writ petition.

The writ petition is misconceived and is accordingly dismissed. No costs.

(V.V.S.RAO, J)

22.11.2006
DR